

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JEFFREY SMITH, et al., : Case No. 1:10cv718
: Plaintiff(s), : Chief Judge Susan J. Dlott
v. :
: INDIAN HILL EXEMPTED VILLAGE : ORDER
SCHOOL DISTRICT, et al., :
: Defendant(s). :
:

This matter is before the Court on Plaintiff Jeffrey Smith's Motion to Stay Judgment, Motion for Judicial Reassignment, Motion for a Writ of Habeas Corpus, Motion for Permission to File Appellate Motions, and Motion for Summary Judgment. (Docs. 101, 102, 103, 104, 105). For the reasons that follow, Plaintiff's motions are **DENIED**.

I. BACKGROUND

Plaintiffs initiated this action *pro se* on October 15, 2010, alleging that Defendants violated the rights of their minor daughter under various provisions of federal and state law. On May 5, 2011, Magistrate Judge Bowman issued a Report and Recommendation, recommending that the Court grant Defendants' motions to dismiss on the basis that Plaintiffs' claims were barred on *res judicata* grounds.¹ Although Judge Bowman did not recommend imposing sanctions at that time, she noted that the sanctions issue presented a close call and warned Plaintiffs that "[s]hould Plaintiffs continue to engage in a pattern of conduct that suggests abuse of the litigation process, sanctions may well be warranted." (Doc. 31, Page ID 1788-1789).

¹ With regard to Plaintiffs' claims brought under the Individuals with Disabilities Education Act, Judge Bowman found that Plaintiffs were precluded from pursuing simultaneous actions in state and federal court under *Coe v. Michigan Dept. of Education*, 693 F.2d 616 (6th Cir. 1982).

Plaintiffs subsequently filed five frivolous motions, one of which the Court construed as objections to the Report and Recommendation. (See Docs. 36, 37, 38, 39, 40).

On September 16, 2011, the Court adopted the Report and Recommendation and dismissed the entirety of Plaintiffs' complaint with prejudice. (Doc. 50). In addition, the Court granted Defendants' motion for attorney fees, finding that the "motions of the plaintiffs demonstrate their continued harassment of the defendants" and "only an award of sanctions will deter these harassing, frivolous motions." *Id.* at Page ID 1965.

On November 23, 2011, Plaintiffs filed a notice of appeal to the Sixth Circuit Court of Appeals. On August 10, 2012, the Sixth Circuit dismissed the appeal and affirmed this Court's judgment. (Doc. 72).

Defendant Indian Hill Exempted Village School District Board of Education filed a renewed motion for attorneys' fees. On December 31, 2012, the Court granted Defendant's motion and entered a judgment in the amount of \$41,880.50 in fees, costs, and expenses against Plaintiff Jeffrey Smith. (Doc. 84).

Plaintiff filed a notice of appeal to the Sixth Circuit on January 28, 2013. (Doc. 88). On October 2, 2013, the Sixth Circuit affirmed this Court's order granting Defendant's motion for attorney fees. (Doc. 99). In addition, the Sixth Circuit cautioned Plaintiff "that further litigation of the underlying issue may result in sanctions." *Id.* at Page ID 2780.

II. PLAINTIFF'S MOTIONS

Despite the Sixth Circuit's caution to Plaintiff, Mr. Smith has filed five additional motions in this matter, which are either frivolous or seek further litigation of the underlying issues in this case. First, Plaintiff Smith has filed a motion to stay judgment and a motion for judicial

reassignment. In these motions, which contain precisely the same content, Plaintiff asks the Court to reconsider the final judgment issued in this case and for the judges involved in this matter to recuse themselves. (See Docs. 101, 102). Plaintiff has also filed an unintelligible motion for a writ of habeas corpus, also appearing to challenge the Court's final judgment in this case. (Doc. 103). Finally, in Plaintiff's motion for summary judgment and motion for permission to file appellate motions, Plaintiff seeks to renew his September 5, 2012 and February 4, 2013 motions for summary judgment in this Court and requests permission to seek further review from the Sixth Circuit. (See Docs. 104, 105). Because Plaintiff's motions are frivolous or seek further litigation of issues already decided by this Court and affirmed on review in the Sixth Circuit Court of Appeals, Plaintiff's motions (Docs. 101, 102, 103, 104, 105) are **DENIED**.

Furthermore, in light of Plaintiff Smith's persistence in filing frivolous post-judgment motions, the Court finds that additional sanctions are warranted in this matter. Plaintiff is therefore prohibited from filing any further motions or papers in this case, unless such motions or papers are certified as non-frivolous by an attorney. The Clerk of Court is **DIRECTED** not to accept any further motions or papers presented by Plaintiff in this action unless they are so certified.²

IT IS SO ORDERED.

Date: Feb 12, 2014


Susan J. Dlott, Chief Judge
United States District Court

² This Order does not apply to any notice of appeal to the Sixth Circuit Court of Appeals should Plaintiff wish to file to obtain review of this Order. This Order does not place any limitation on Plaintiff's ability to pursue litigation in the United States District Courts or in the courts of any state except in this particular action. Nor does this Order prohibit Plaintiff from filing any new lawsuits that have a legitimate basis and comply with Fed. R. Civ. P. 11(b) after payment of the appropriate filing fee.